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Paper No. 4

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MILWAUKEE, WI 53202

COPY MAILED

AUG 2 1 2001

OFFICE OF PETITIONS

In re Application of :
Christopher Weaver :
Application No. 09/819,092 : DECISION DISMISSING
Deposited: 6 April, 2000 : PETITION
Attorney Docket No. 13763 :

This is a decision on the petition filed on 27 June, 2001, requesting that the Continued Prosecution Application (CPA) filed on 6 April, 2000, and based on prior application No. 09/150,632 (issued as U.S. Patent No. 6,062,092 on 16 May, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 6 April, 2000.

The petition **DISMISSED**.

A review of the file of prior application No. 09/150,632 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/150,632 was filed in the above-identified patent application on 6 April, 2000. The prior application, however, issued as U.S. Patent No. 6,062,092 on 16 May, 2000, as a result of applicant's payment of the issue fee on 10 April, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/150,632 are no longer available for processing under 37 CFR 1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 6 April, 2000, have been removed from the file of application No. 09/150,632 and have been assigned application No. 09/819,092 for identification purposes. The present petition has also been placed in the file of Application No. 09/819,092. All further correspondence concerning the application deposited on 6 April, 2000, should be directed to Application No. 09/819,092, not Application No. 09/150,632.

The present petition requests that the CPA request be treated as an application under 37 CFR 1.53(b). A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the \$130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed on 27 June, 2001, is not accompanied by a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration.

Accordingly, the petition is dismissed.

However, this decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior application as originally filed.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.¹

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

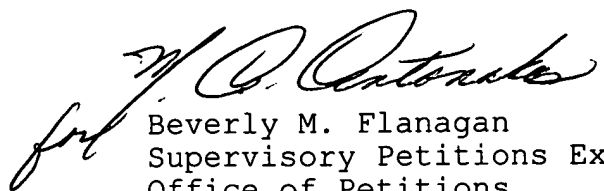
By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Receipt of the revocation and power of attorney and change of correspondence address filed with the present petition is acknowledged. Correspondence will be mailed to the address listed therein. It is noted that the Registration Numbers listed for attorneys Peter C. Stromma and Andrew S. McConnell in the power of attorney are incorrect. These attorneys have been entered in Office records as empowered in this application using the correct Registration Numbers.

¹See 37 CFR 1.181(f).

Telephone inquiries concerning this matter may be directed to
Petitions Attorney Douglas I. Wood at (703)308-6918.

A handwritten signature in cursive script, appearing to read "B. M. Flanagan", is written over the printed name.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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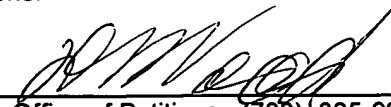
| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|--------------------|-------------|-----------------------|---------------------|
| 09/819,092 | 04/06/2000 | CHRISTOPHER WEAVER | 13763 |

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DATE MAILED: AUG 21 2001

This is in response to the Power of Attorney filed 06/27/2001.

- ☒ 1. The power of Attorney to you in this application **has been revoked** by the applicant. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.
- ☐ 2. The power of attorney to you in this application **has been revoked** by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record. (37 CFR 1.33)
- ☐ 3. The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33 1. The power of Attorney to you in this application **has been revoked** by the applicant. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.
- ☒ 4. The power of attorney in this application **is accepted**. Correspondence in this application will be mailed to the below-noted address as provided by 37 CFR 1.33.
- ☐ 5. The Power of Attorney in this application **is not accepted** for the reason(s) checked below:
- ☐ a. The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73 (b) has not been received.
- ☐ b. The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- ☐ c. The inventor(s) is without authority to appoint attorneys since the assignee has intervened as provided by 37 CFR 3.71.
- ☐ d. The signature of _____, a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor.
- ☐ e. The person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent & Trademark Office.
- ☐ f. The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.


Office of Petitions (703) 305-9282

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